

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

V.

(1) STRYKER BIOTECH, LLC,

(2) MARK PHILIP,

(3) WILLIAM HEPPNER,

(4) DAVID ARD and

(5) JEFFREY WHITAKER,

Defendants.

Criminal No: 09-CR-10330-GAO

DEFENDANT STRYKER BIOTECH'S MOTION TO SEVER COUNT 15

Defendant Stryker Biotech, LLC hereby: (1) joins Defendants William Heppner, David Ard, and Jeffrey Whitaker's Motion to Sever Count 15 Due to Misjoinder Under Federal Rules of Criminal Procedure 8(b) and 14; and (2) moves separately, pursuant to Rule 8(a), to sever Count 15 of the Indictment.

WHEREFORE, as further set out in its accompanying Memorandum of Law, Defendant Stryker Biotech, LLC respectfully moves this Court to sever Count Fifteen of the Indictment.

REQUEST FOR ORAL ARGUMENT

Defendant respectfully requests that oral argument be scheduled on this motion.

Respectfully submitted,

STRYKER BIOTECH, LLC

/s/ Joshua Levy

Brien T. O'Connor (BBO #546767)

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Dated: September 14, 2011

LOCAL RULE 7.1(A)(2) CERTIFICATION

I hereby certify that I contacted Assistant United States Attorney Susan Winkler by telephone to ask the Government's position on this motion. Assistant United States Attorney Susan Winkler responded that the Government opposes it.

/s/ Joshua S. Levy

Joshua S. Levy

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and that paper copies will be sent to any indicated as non-registered participants, on September 14, 2011.

Dated: September 14, 2011

/s/ Joshua S. Levy

Joshua S. Levy